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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,630	05/11/2001	Andrew Strawn	367.40103X00	5351

20457 7590 04/14/2004

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EXAMINER

TORRES, MARCOS L

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 04/14/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/852,630

Applicant(s)

STRAWN ET AL.

Examiner

Marcos L Torres

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/29/2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 6-9, 12-15 and 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Fuhrmann.

As to claims 1, 7, 12-15 and 18, Fuhrmann discloses an electronic radiotelephone (see col. 1, lines 9-10) comprising a first and second housing for housing electronic components of the radiotelephone (see fig 1, items 1,14) and a biasing mechanism to aid the user to release the second housing from the first housing; the first housing having an element with an operating surface and a formation which co-operates with a complementary formation on the second housing for the user to releasably attaching the first housing to the second housing (see fig. 1, items 12, 13 and 17); the element being movable between a first and a second position such that when the element is in the first position the formation and complementary formation co-

operate to allow the first housing to be coupled to the second housing and when in the second position to allow the second housing to be removed from the first housing by the user (see fig 1, 2); the element being resiliently compression biased by the biasing mechanism into the first position and allows a user to urge the element, via the operating surface , into the second position during the removal of the second housing from the first housing to act against the compression bias provided by the biasing mechanism and to release the co-operation of the formation and complementary formation, thereby allowing the second housing to be removed from the first housing by the user without interference from the element (see col. 3, line 15 - col. 4, line 22).

As to claim 2, Fuhrmann discloses a radiotelephone wherein the first housing is presented away from a user during operation of the radiotelephone and the second housing is presented towards a user during operation of the radiotelephone (see fig. 1).

As to claim 3, 6 and 17, Fuhrmann discloses a radiotelephone further comprising retaining means for retaining the electronic components of the radiotelephone to the first and second housing (see col. 3 lines 6-14).

As to claim 4, Fuhrmann discloses a radiotelephone wherein the second housing has a lip for engaging with the element to allow the first housing to be coupled to the second housing (see fig. 3, 4).

As to claims 8-9 and 19-20, Fuhrmann discloses a radiotelephone wherein comprising a spring associated with the first and second housing and arranged to be compressed when the first and second housings are coupled (see col. 3, lines 20-27).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuhrmann in view of MacDonald Jr.

As to claims 5 and 16, Fuhrmann disclose everything claimed as explained above except for a radiotelephone wherein the element is a flexible hinge. Weadon discloses a radiotelephone wherein the element is a flexible hinge (see fig. 1, item 18). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add these teachings to the Fuhrmann system for easier opening and closing of the cover.

8. Claims 10-11 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuhrmann in view of Guzik.

As to claims 10 and 11, Fuhrmann disclose everything claimed as explained above except for a radiotelephone wherein the means for urging comprises a rubber seal associated with the first and second housing and arranged to be compressed when the first and second housings are coupled. Guzik a radiotelephone wherein the means for urging comprises a rubber seal associated with the first and second housing and arranged to be compressed when the first and second housings are coupled (see col. 1, lines 27-29). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add these teachings to the Fuhrmann system for the simple purpose of protecting the internal parts of the device.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Sakata U.S. Publication US 20020042285A1
- b. Steinhoff U.S. Patent US006088240A

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any response to this Office Action should be mailed to:

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(703) 703-872-9306

For formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Art Unit: 2683

Hand delivered responses should be brought to:

Crystal Park II
2121 Crystal Drive
Arlington, VA
Sixth Floor (Receptionist)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L Torres whose telephone number is 703-305-1478. The examiner can normally be reached on 8:00am-5:30pm alt. friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William G Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marcos L Torres
Examiner
Art Unit 2683

Mlt


WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600